AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the
Western District of New York

UNITED STATES DISTRICT COURT
FILED
OCT 13 2016
MARY C. LOEWENGUTH, CLERK
WESTERN DISTRICT OF NY

United States of America

v.

Case No. 16-M- 134

TEODORO BAQUEDANO-MARTINEZ ,

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of August 4, 2016, in the Western District of New York, the defendant, TEODORO BAQUEDANO-MARTINEZ, violated Title 8, United States Code, Section 1326(a) [re-entry after deportation or removal] in that the defendant, an alien who had previously been deported or removed from the United States, knowingly and voluntarily re-entered the United States and was found to be present in the United States, without first obtaining the express consent from the Attorney General of the United States or from the Secretary of Homeland Security to reapply for admission to the United States.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

[signature]
Complainant's signature

Thomas A. Bykowski, Deportation Officer ICE
Printed name and title

Sworn to before me and signed in my presence.

Date: October 13, 2016

[signature]
Judge's signature

City and State: Buffalo, New York

H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

THOMAS A. BYKOWSKI, being duly sworn, deposes and says that:

1. I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") and have been so employed for 16 years.

2. As a part of my duties during my employment with ERO, I have investigated violations of the Immigration and Nationality Act ("INA") and violations of the United States Code, in particular Title 8, United States Code, Section 1325 and 1326, regarding the illegal entry of aliens and the illegal re-entry of previously deported or removed aliens.

3. This affidavit is based upon my own knowledge, my review of official records of the former Immigration and Naturalization Service and current ICE, and upon information that I obtained from other law enforcement officers involved with this investigation.

4. I make this affidavit in support of the annexed Criminal Complaint charging TEODORO BAQUEDANO-MARTINEZ with a violation of Title 8, United States Code, Section 1326(a), regarding the reentry of previously deported or removed aliens.

5. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included every fact known to me concerning this investigation. I have set forth only facts that I believe are necessary to

establish probable cause to demonstrate that TEODORO BAQUEDANO-MARTINEZ violated Title 8, United States Code, Section 1326(a).

6. On or about August 4, 2016, the ICE/ERO Criminal Alien Program conducted routine record checks of inmates at the Niagara County Jail in Lockport, New York. TEODORO BAQUEDANO-MARTINEZ, a citizen of Honduras, who was previosuly removed from the United States, was arrested and booked by the Niagara County Sheriff's Office for Endangering the Welfare of a Child. Immigration record checks reveal that TEODORO BAQUEDANO-MARTINEZ had illegally entered the United States, after being removed to Honduras and was being detained at the Niagara County Jail.

7. A complete set of fingerprints were electronically captured from TEODORO BAQUEDANO-MARTINEZ and submitted to the Federal Bureau of Investigation, Identification Division, in Clarksburg, West Virginia, via the Integrated Automated Fingerprint Identification System. This set of fingerprints produced a positive biometric match with an Alien Registration Number (A*** *** 353) and an FBI number (******FD5), both relating to TEODORO BAQUEDANO-MARTINEZ. ERO requested the Immigration Alien File ("A-File") for further review.

8. A subsequent review of the A-File revealed that TEODORO BAQUEDANO-MARTINEZ had been removed from the United States on two prior occasions, the details of which are as follows:

a. On or about June 1, 2007, the United States Border Patrol encountered TEODORO BAQUEDANO-MARTINEZ in Laredo, Texas. TEODORO BAQUEDANO-MARTINEZ was administratively arrested for a violation of Title 8, United States

Code, Section 1182, specifically INA section 212(a)(6)(A)(i), an immigration without admission or parole.

b. On or about March 4, 2010, a United States Immigration Judge issued a final order of removal for TEODORO BAQUEDANO-MARTINEZ. On August 12, 2011 pursuant to that order, ICE physically removed TEODORO BAQUEDANO-MARTINEZ from the United States to Honduras. At that time, ICE provided TEODORO BAQUEDANO-MARTINEZ with Immigration Form I-294, advising him that he would be in violation of Title 8, United States Code, Section 1326 if he entered, attempted to enter, or was found in the United States without the permission of the United States Attorney General, or his Successor, the Secretary of Homeland Security.

c. Thereafter, on or about April 1, 2012, TEODORO BAQUEDANO-MARTINEZ was again arrested by the United States Border Patrol near Brownsville, Texas. TEODORO BAQUEDANO-MARTINEZ was processed as a reinstatement of a prior order of removal, Form I-871. On or about November 13, 2014, ICE again physically removed TEODORO BAQUEDANO-MARTINEZ from the United States to Honduras. ICE again provided TEODORO BAQUEDANO-MARTINEZ with Immigration Form I-294, advising him that he would be in violation of Title 8, United States Code, Section 1326 if he entered, attempted to enter, or was found in the United States without the permission of the United States Attorney General, or his Successor, the Secretary of Homeland Security.

9. Based on the above referenced immigration record checks, TEODORO BAQUEDANO-MARTINEZ has no valid immigration status and is illegally present in the United States. TEODORO BAQUEDANO-MARTINEZ did not have any authorization or approval from the Attorney General of the United States, or the Secretary of the Department of Homeland Security, to re-enter the United States after his removal.

WHEREFORE, it is respectfully submitted that probable cause exists to believe that TEODORO BAQUEDANO-MARTINEZ did commit the offense of re-entry after deportation or removal, in violation of Title 8, United States Code, Section 1326(a), in that he, a native and citizen of Honduras, having been ordered removed from the United States on March 4, 2010 and physically removed from the United States on August 12, 2011 and

November 13, 2014, was thereafter on August 4, 2016 found in the United States by ERO in Lockport, New York, within the Western District of New York, without prior authorization or approval from the Attorney General of the United States or the Secretary of the Department of Homeland Security.

THOMAS A. BYKOWSKI
Deportation Officer
Enforcement and Removal Operations
Immigration and Customs Enforcement

Sworn to before me this 13th

day of October, 2016

H. KENNETH SCHROEDER, JR.
United States Magistrate Judge